

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
Phone: (877)-833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

_____,
Appellant
_____ /

CASE INFORMATION

Docket No.: 15-006958-HHR
Case No.: _____
Appellant:

Respondent:
Department Community Health

HEARING INFORMATION

Hearing Date: _____
Start Time: _____
Location
Telephone Hearing
Department Community Health
320 S. Walnut Street
Lansing, MI 48909

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon Appellant's request for a hearing.

After due notice, a hearing was held on July 23, 2015. _____ appeared on her own behalf and offered testimony. _____ appeared as a witness for the Appellant. _____, Appeals Review Officer, represented the Department. _____, Adult Services Worker (ASW), and _____, Finance Manager, MDCH Medicaid Collection Unit appeared as witnesses for the Department.

ISSUE

Did the Department properly pursue recoupment against the Provider for Home Help Services (HHS) for payments from _____ through _____?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. From _____ through _____, the Appellant provided HHS to _____. (Testimony)
2. On or around _____ moved into a new residence. PACE Southeast Michigan provided HHS like services to the building _____ moved into. (Ex A, p 4; Testimony)

3. Between ██████████ and ██████████, PACE Southeast Michigan urged ██████████ to transition from the Appellant's services to their own. (Ex A, p 4; Testimony)
4. On or around ██████████ ██████████ enlisted with PACE Southeast Michigan. (Ex A, p 4; Testimony)
5. On ██████████, the Appellant stopped providing services to ██████████. (Ex A, p 4; Testimony)
6. On ██████████ ██████████ went to ██████████ residence to conduct a client review. ██████████ and a social worker participated in the review. During the review, it was communicated that ██████████ was now receiving services from PACE Southeast Michigan. (Testimony)
7. On ██████████, ██████████ sent the Appellant a letter indicating she was overpaid for HHS that were not provided during the time period of ██████████ ██████████. (Ex A, p 7; Testimony)
8. On ██████████, ██████████ sent the Appellant an initial collection notice indicating the Appellant owed the Adult Services Program ██████████ (Ex A, p 8; Testimony)
9. On ██████████, the Michigan Administrative Hearing System received the Appellant's hearing request (Exhibit A, p. 3).

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a health professional and may be provided by individuals or by private or public agencies.

Adult Services Manual (ASM) 101, 12-1-2013, addresses HHS available to a client. This policy provides in part:

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness. [ASM 101, p 1 of 4]

ASM 135, 12-1-2013, addresses Home Help Providers and their responsibilities under the HHS program. This policy states in part:

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- The client and provider are responsible for notifying the adult services specialist within **10 business days** of any change in providers or hours of care.
- The provider and/or client is responsible for notifying the adult services specialist within **10 business days** if the client is hospitalized.
- **Note:** Home help services **cannot** be paid the day a client is admitted into the hospital but **can** be paid the day of discharge. [ASM 135, p 3 of 9].

ASM 125 12-1-2013 covers the MI-Choice Waiver Program:

The MI Choice waiver program provides home and community-based services for individuals:

- Aged (65 and over) and disabled persons who meet the MA nursing facility level of care.
- Who require at least one MI Choice service on a continual basis.
- Meet Medicaid financial eligibility criteria; see BEM 106.

The Michigan Department of Community Health, Home and Community Based Services Section, administers the waiver through contracts with organized health care delivery systems, commonly referred to as waiver agencies. For a list of the waiver agencies see **Exhibit I in BEM 106**.

MI Choice participants **cannot** receive services from both the **home help program** and the **waiver** as this is a duplication of Medicaid services. The level of care (LOC) code for the MI-Choice waiver is **22**.

ASM 165, 5-1-2013, addresses the issue of recoupment:

GENERAL POLICY

The department is responsible for correctly determining accurate payment for services. When payments are made in an amount greater than allowed under department policy, an overpayment occurs.

When an overpayment is discovered, corrective actions must be taken to prevent further overpayment and to recoup the overpayment amount. The normal ten business day notice period must be provided for any negative action to a client's services payment. An entry must be made in the case narrative documenting:

- The overpayment.
- The cause of the overpayment.
- Action(s) taken to prevent further overpayment.

- Action(s) taken to initiate the recoupment of the overpayment.

FACTORS FOR OVERPAYMENTS

Four factors may generate overpayments:

- Client errors.
- Provider errors.
- Administrative errors.
- Department upheld at an administrative hearing.

Appropriate action must be taken when any of these factors occur.

Provider Errors

Service providers are responsible for correct billing procedures. Providers must only bill for services that have been authorized by the adult services specialist and that the provider has already delivered to the client.

Note: Applicable for home help agency providers and cases with multiple individual providers where hours may vary from month to month.

Providers are responsible for refunding overpayments resulting from an inaccurate submission of hours. Failure to bill correctly or refund an overpayment is a provider error.

Example: Provider error occurs when the provider bills for, and receives payment for services that were not authorized by the specialist or for services which were never provided to the client. [ASM 165 5-1-2013, pp 1, 3]

* * *

The Department in this case alleges the Appellant was paid for services that were not rendered and that were instead provided by another Agency or in the alternative were a duplication of services. The Department based their determination on statements provided to them by an unknown and unnamed social worker that attended the ██████████ client review. The unknown and unnamed social worker did not participate in the hearing.

The Appellant on the other hand argued that she provided services up until ██████████ at which point in time she stopped providing services. ██████████ (the client) corroborated the Appellant's testimony. Additionally, there was a letter in the hearing packet that was authored by a ██████████ LLMSW, whom ██████████ identified as being her social worker. The letter also corroborated the Appellant's testimony and added that services from PACE Southeast Michigan started on ██████████.

Based upon the evidence submitted, I find that more likely than not, the client only received

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HHS from the Appellant from [REDACTED] up until [REDACTED] when those services where transitioned to PACE Southeast Michigan.

As a result, I find the Department improperly sought recoupment from the Appellant of the payment for Home Help Services from [REDACTED] totaling [REDACTED]

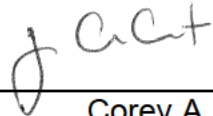
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly pursued recoupment against the Appellant.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**.

The Department is ordered to remove the debt totaling [REDACTED] for the time period from [REDACTED] against Appellant from its collections data base.



Corey A. Arendt
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Health and Human Services

[REDACTED]
Date Signed: [REDACTED]
Date Mailed: [REDACTED]
cc: [REDACTED]

***** NOTICE *****
The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.